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1. *United States v. Nucor Corp., 2002 U.S. Dist. LEXIS 27933*

Client/Matter: -None-



Neutral

As of: February 6, 2017 12:33 PM EST

United States v. Nucor Corp.

United States District Court for the Northern District of Alabama, Middle Division

May 6, 2002, Filed and Entered

Civil Action No. CV-95-AR-2275-M

Reporter

2002 U.S. Dist. LEXIS 27933 *; 2002 WL 32122510

UNITED STATES OF AMERICA, Plaintiff, v. NUCOR CORPORATION, Defendant.

Prior History: United States v. Nucor Corp., 17 F. Supp. 2d 1249, 1998 U.S. Dist. LEXIS 15923 (N.D. Ala., 1998)

Core Terms

parties, Emissions, vacate, Appeals, alleged violation, resolves, Coating

Counsel: [*1] For United States of America, Plaintiff: Alice H Martin, US Attorney, US ATTORNEY'S OFFICE, Birmingham, AL; Alan Dion, US ENVIRONMENTAL PROTECTION AGENCY, Office of Regional Counsel Region IV, Atlanta, GA.

For Nucor Corporation, Defendant: Eric L Hiser, KANE JORDEN VON OPPENFELD, BISCHOFF & BISKIND, Phoenix, AZ; H Thomas Wells, Jr, MAYNARD COOPER & GALE, PC, Birmingham, AL, J Alan Truitt, MAYNARD COOPER & GALE, PC, Birmingham, AL.

Judges: Robert B. Propst, United States District Judge.

Opinion by: Robert B. Propst

Opinion

ORDER GRANTING JOINT MOTION OF THE UNITED STATES AND NUCOR CORPORATION TO VACATE PUBLISHED OPINION

By the Court:

Before the Court is the joint motion of the United States and Nucor Corporation pursuant to Rule 60(b) (6) of the Federal Rules of Civil Procedure to vacate the Court's prior reported decision, published at 17 F. Supp. 2d 1249. The case was on appeal to the United States Court of Appeals for the Eleventh Circuit, but at the request of the parties, the Court of Appeals has granted a limited remand for the purpose of the joint motion. The parties have informed the Court that they have reached a national [*2] settlement embodied in a Consent Decree entered by the United States District Court for the District of South Carolina in June 2001. The parties have informed the Court that the Consent Decree resolves alleged violations at Nucor's plants, including the Alabama Vulcraft facility that was the subject of the civil action before this Court.

The parties have also informed the Court that pursuant to the Consent Decree, Volatile Organic Compound emissions from Nucor's Vulcraft facility will be treated as emissions from an "open coating process" in accordance with "Preferred and Alternative Methods for Estimating Air Emissions from Surface Coating Operations," vol. 2, chapter 7, section 4 (STAPPA/ALAPCO/EPA Emissions Inventory Improvement Project July 2001), and the parties have agreed that the South Carolina Consent Decree will govern the Clean Air Act issues raised in this case.

This Court finds that the joint motion should be granted under the circumstances here presented, where a Consent Decree of national scope has been entered into between the parties that resolves the alleged violations and the parties have agreed to vacate the decision published at 17 F. Supp. 2d 1249, [*3] pursuant to Rule 60(b) (6) of the Federal Rules of Civil Procedure.

IT IS THEREFORE ORDERED that the opinion published at 17 F. Supp. 2d 1249 is VACATED and the parties are ordered to proceed with dismissal of the appeals in accordance with the Order of the Eleventh Circuit issued April 12, 2002.

Robert B. Propst

United States District Judge